

REMARKS

In the Office Action mailed December 23, 2009, claims 1 and 2 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The Examiner stated, “the claim(s) contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/use the invention.” Being filed herewith is the Declaration Under 37 CFR §1.132 of the Inventor Emmanouil Domazakis addressing this ground for rejecting claims 1 and 2. After careful consideration of the Domazakis Declaration, the Applicant respectfully requests withdrawal of the rejection of claims 1 and 2 under 35 U.S.C. §112, first paragraph.

Claim 2 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Dijkoorn et al. For the reasons that follow, Applicant traverses this ground for rejecting claim 2 of the present application.

Dijkoorn (hereinafter “D2”) discloses a baked filled product comprising a filling enclosed inside a bread dough casing. D2 also refers to a particular baked product “architecture,” comprising a moisture-containing filling enclosed in a bread casing and an intermediate layer separating the filling from the bread-like casing. The intermediate layer materially retards the negative influence of the moisture in the filling on the organoleptic properties of the bread-like casing when stored. The technological challenge that D2 aims to confront, as well as the strategies adopted for this purpose, are clearly different from the present application (hereinafter “D1”).

Applicant supposes that the Examiner attempted to compare the “intermediate layer” of D2 with the emulsion (claim 1, step 1) of D1. With regard to the above-mentioned “intermediate layer,” of D2 wherein oil or fat is incorporated, it has a substantially different composition, and thus a different texture, to the emulsion of claim 1, step 1 of D1. Specifically, the “intermediate layer” comprises, among other ingredients, wheat flour, extruded expanded starch and baking powder, and a combination of other ingredients that fully justifies its characterization as a dough or cake batter. By contrast, the emulsion of claim 1, step 1, of D1 is a basic emulsion system, comprising an oil phase (i.e., olive oil), emulsifiers (i.e., distilled monoglycerides, and egg yolk as a complementary ingredient) and water, as the basic ingredients, that by no means mimics a dough or a cake batter.

In response to the Examiner’s argument that it would have been obvious to substitute olive oil for margarine, when desiring a healthier fat, it should be noted that a margarine or a butter are substantially different from a liquid vegetable oil rich in unsaturated fatty acids, such as olive oil. This is due to the presence of saturated fatty acids in butter and margarine that create their favorable melting profiles, thus rendering them solid at room temperature. Butter, as an animal fat, is high in saturated fatty acids. On the other hand, margarine usually contains trans-fat, i.e., saturated fatty acids that are obtained through hydrogenation, or oils of favorable saturated/unsaturated fatty acids profiles, or mixtures of oil and butter.

The technological challenge of D1 was to replace the traditionally used margarine/butter in croissant-type pastries with olive oil. This challenge was further complicated by the fact that such products usually contain a considerable amount of fat.

To overcome this technological obstacle, the present inventor adopted the strategy of direct and indirect oil incorporation in the croissant-type pastry:

Direct addition: An amount of the oil to be added was directly added, along with the “remaining ingredients” in the kneaded dough.

Indirect oil incorporation. An amount of the oil to be added was added through an emulsion, comprising olive oil, distilled monoglycerides, water, dextrose, fructose and egg yolk.

Using this strategy, maximum oil incorporation is ensured. In addition, the emulsion of D1 confers supreme mechanical resistance to the dough for its further processing (see the original D1, page 1, lines 34-36).

For all these foregoing reasons, Applicant respectfully requests entry of the foregoing amendments to the claims, reconsideration of the present application in light thereof, and in light of the foregoing remarks, followed by an allowance of claims 1 and 2, as amended, over all the prior art of record.

Respectfully submitted,

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